

House Bill 798

By: Representatives Smith of the 168th and Oliver of the 83rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics
2 in government, so as to substantially revise the "Ethics in Government Act"; to rename the
3 Georgia Government Transparency and Campaign Finance Commission as the State Ethics
4 Commission; to change certain provisions relating to campaign contributions; to change
5 provisions relating to the powers and duties of the commission; to change provisions relating
6 to public officials' conduct and lobbyist disclosure; to change provisions relating to
7 postemployment restrictions on public officers; to amend Title 45 of the Official Code of
8 Georgia Annotated, relating to public officers and employees, so as to conform certain
9 cross-references; to provide for related matters; to provide for an effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 I.
13 Campaign contributions.

14 **SECTION 1.**

15 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
16 government, is amended by adding a new Code section to read as follows:

17 "21-5-30.3.

18 (a) Except as otherwise provided in this subsection, the definitions set forth in Code
19 Section 21-5-3 shall be applicable to the provisions of this Code section. As used in this
20 Code section, the term:

21 (1) 'Contribution' means a gift, subscription, membership, loan, forgiveness of debt,
22 advance or deposit of money, or anything of value conveyed or transferred for the
23 purpose of influencing the nomination for election or election of an individual to the
24 office of an elected executive officer or for the purpose of encouraging the holder of such
25 office to seek reelection. Such term shall include the payment of a qualifying fee and

travel expenses for and on behalf of a candidate for the office of an elected executive officer and any other payment or purchase made for and on behalf of the holder of the office of an elected executive officer or for or on behalf of a candidate for that office when such payment or purchase is made for the purpose of influencing the nomination for election or election of the candidate and is made pursuant to the request or authority of the holder of such office, the candidate, the campaign committee of the candidate, or any other agent of the holder of such office or the candidate. Such term shall include any such payment to a member of the family of a candidate or public officer. Such term shall not include the value of personal services performed by persons who serve on a voluntary basis without compensation from any source.

(2) 'Disclosure report' means a report filed with the commission by a political action committee setting forth all expenditures of more than \$100.00 and all contributions of more than \$100.00 for the calendar year in which the report is filed. Such report shall also include the total amount of all contributions received or expenditures made of less than \$100.00 each.

(3) 'Political action committee' means any committee, club, association, partnership, corporation, or other group of persons which receives donations aggregating in excess of \$1,000.00 during a calendar year from persons who are members or supporters of the committee and which distributes these funds as contributions to one or more campaign committees of candidates for public office. Such term shall not include a campaign committee.

(b) No political action committee and no person acting on behalf of a political action committee shall make contributions or transfers of funds to other political action committees or persons acting on behalf of other political action committees which in the aggregate for a two-year election cycle exceed \$10,000.00.

(c) No political action committee and no person acting on behalf of a political action committee shall accept a contribution from any person which exceeds \$1,000.00.

(d) Not later than January 3, each year, each political action committee shall be required to annually file with the commission a disclosure report with expenditures and contributions made during the preceding calendar year.

(e) A candidate or candidate's campaign committee shall not make contributions to any candidate, political action committee, candidate's campaign committee, political committee, or political party which in the aggregate for a two-year election cycle exceed \$10,000.00."

II.

Lobbyist registration, limitations, and disclosures.

SECTION 2.

Said chapter is further amended by revising subsection (f) of Code Section 21-5-71, relating to registration of lobbyists, applications for registration, supplemental registration, expiration, docket, fees, identification cards, public rosters, and exemptions, as follows:

"(f)(1) Each person registering under this Code section shall pay the registration fees set forth in paragraph (2) of this subsection; provided, however, that a person who represents any state, county, municipal, or public agency, department, commission, or authority shall be exempted from payment of such registration fees.

(2) The commission shall collect the following fees:

(A) Annual lobbyist registration or renewal filed pursuant to this Code section ~~\$300.00~~ \$150.00

(B) Lobbyist supplemental registration filed pursuant to this Code section ~~10.00~~ 50.00

(C) Each copy of a lobbyist identification card issued pursuant to this Code section 20.00

(D)(i) For reports filed when the General Assembly is not in session, in addition to other penalties provided under this chapter, a late fee of \$275.00 shall be imposed for each report that is filed late. In addition, a late fee of \$1,000.00 shall be imposed on the fifteenth day after the due date for such report if the report has not been filed. A late fee of \$10,000.00 shall be imposed on the forty-fifth day after the due date for such report if the report has not been filed.

(ii) The commission shall retain \$25.00 of the first late fee received for processing pursuant to the provisions of Code Section 45-12-92.1.

(E)(i) For reports filed when the General Assembly is in session, in addition to other penalties provided under this chapter, a late fee of \$275.00 shall be imposed for each report that is filed late. In addition, a late fee of \$1,000.00 shall be imposed on the seventh day after the due date for such report if the report has not been filed. A late fee of \$10,000.00 shall be imposed on the twenty-first day after the due date for such report if the report has not been filed.

(ii) The commission shall retain \$25.00 of the first late fee received for processing pursuant to the provisions of Code Section 45-12-92.1."

SECTION 3.

Said chapter is further amended by revising paragraph (1) of Code Section 21-5-70, relating to definitions for provisions relating to public officials' conduct and lobbyist disclosure, as follows:

"(1) 'Expenditure':

(A) Means a purchase, payment, distribution, loan, advance, deposit, or conveyance of money or anything of value made for the purpose of influencing the actions of any public officer, specifically including any such transaction which is made on behalf of or for the benefit of a public employee for the purpose of influencing a public officer;

(B) Includes any other form of payment when such can be reasonably construed as designed to encourage or influence a public officer;

(B.1) Includes reimbursement or payment of actual and reasonable expenses provided to a public officer for transportation, travel, lodging, registration, food, beverages, and other activities related to attending a meeting or conference so as to permit such public officer's participation in such meeting or conference;

(C) Includes any gratuitous transfer, payment, subscription, advance, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(D) Notwithstanding division (x) of subparagraph (E) of this paragraph, includes food or beverage consumed at a single meal or event by a public officer or public employee or a member of the family of such public officer or public employee; ~~and~~

(D.1) Includes any such transaction or expenditure as provided in subparagraph (A), (B), (B.1), or (C) made to a family member of a public officer and an employee of a public officer; and

(E) The term shall not include:

(i) The value of personal services performed by persons who serve voluntarily without compensation from any source;

(ii) A gift received from a member of the public officer's family;

(iii) Legal compensation or expense reimbursement provided to public employees and to public officers in the performance of their duties;

(iv) Promotional items generally distributed to the general public or to public officers and food and beverages produced in Georgia;

(v) An award, plaque, certificate, memento, or similar item given in recognition of the recipient's civic, charitable, political, professional, or public service;

(vi) Legitimate salary, benefits, fees, commissions, or expenses associated with a recipient's nonpublic business, employment, trade, or profession;

(vii) Food, beverages, and registration at group events to which all members of an agency, as defined in paragraph (1) of subsection (a) of Code Section 21-5-30.2, are invited. An agency shall include the Georgia House of Representatives, the Georgia Senate, committees and subcommittees of such bodies, and the governing body of each political subdivision of this state;

(viii) Campaign contributions or expenditures reported as required by Article 2 of this chapter;

(ix) A commercially reasonable loan made in the ordinary course of business;

(x) Food, beverage, or expenses afforded public officers, members of their immediate families, or others that are associated with normal and customary business or social functions or activities; or

(xi) Transportation unless a lobbyist arranges for or participates in such transportation."

SECTION 4.

Said chapter is further amended by revising subsection (a) of Code Section 21-5-73, relating to disclosure reports, as follows:

"(a) Except as provided in this paragraph, no lobbyist shall make any expenditure to any public officer, any employee of a public officer, or any member of the family of a public officer in an amount exceeding \$100.00. Expenditures for actual transportation costs provided for in subparagraph (B.1) of paragraph (1) of Code Section 21-5-70, relating to the attendance of meetings and conferences, shall be unlimited. Additional expenditures by a lobbyist as provided for in such subparagraph shall not exceed \$500.00 per event. The restrictions on expenditures provided for in this subsection shall apply to an individual lobbyist or officially affiliated lobbying group, association, business, partnership, or firm. Nothing in this subsection shall limit aggregate expenditures by more than one lobbyist or by unaffiliated lobbying associations.

(a.1) Each lobbyist registered under this article shall file disclosure reports as provided for in this Code section in the electronic format specified by the commission."

III.

The "State Ethics Commission."

SECTION 5.

Said chapter is further amended by revising paragraph (5) of Code Section 21-5-3, relating to definitions for general provisions relating to ethics in government, as follows:

"(5) 'Commission' means the ~~Georgia Government Transparency and Campaign Finance~~
State Ethics Commission created under Code Section 21-5-4."

SECTION 6.

Said chapter is further amended by revising Code Section 21-5-4, relating to the Georgia Government Transparency and Campaign Finance Commission, membership, officers, quorum, and meetings, as follows:

"(a) The ~~Georgia Government Transparency and Campaign Finance~~ State Ethics Commission shall be a successor to the ~~State Ethics~~ Georgia Government Transparency and Campaign Finance Commission, with such duties and powers as are set forth in this chapter. As the successor commission, it shall have all the powers and duties granted to the ~~State Ethics~~ Georgia Government Transparency and Campaign Finance Commission in all matters pending before the ~~State Ethics~~ Georgia Government Transparency and Campaign Finance Commission and may continue to investigate, prosecute, and act upon all such matters.

(b) The commission shall be governed by five members appointed as follows: three members, not more than two of whom shall be from the same political party, shall be appointed by the Governor, two for terms of three years and one for a term of two years; one member shall be appointed by the Senate Committee on Assignments for a term of four years; and one member shall be appointed by the Speaker of the House of Representatives for a term of four years. Upon the expiration of a member's term of office, a new member, appointed in the same manner as the member whose term of office expired as provided in this subsection, shall become a member of the commission and shall serve for a term of four years and until such member's successor is duly appointed and qualified. If a vacancy occurs in the membership of the commission, a new member shall be appointed to the unexpired term of office by the state official or the committee that appointed the vacating member. Members of the commission shall not serve for more than one complete term of office.

(c) All members of the commission shall be residents of this state.

(d) Any person who:

(1) Has qualified to run for any federal, state, or local public office within a period of five years prior to such person's appointment;

(2) Has held any federal, state, or local public office within a period of five years prior to such person's appointment; ~~or~~

(3) Serves as an officer of any political party, whether such office is elective or appointive and whether such office exists on a local, state, or national level;

(4) Is currently a lobbyist or has served as a lobbyist within five years of such person's appointment;

(5) Is receiving or has received within five years of such person's appointment compensation from a lobbyist group, organization, or firm or another lobbyist; or

(6) Has a family member who is currently a lobbyist

shall be ineligible to serve as a member of the commission.

(e) The commission shall elect a chairperson, a vice chairperson, and other officers as it deems necessary. The members shall not be compensated for their services but they shall be reimbursed in an amount equal to the per diem received by the General Assembly for each day or portion thereof spent in serving as members of the commission. They shall be paid their necessary traveling expenses while engaged in the business of the commission.

(f) A majority of the members of the commission constitutes a quorum for the transaction of business. The vote of at least a majority of the members present at any meeting at which a quorum is present is necessary for any action to be taken by the commission. No vacancy in the membership of the commission impairs the right of a quorum to exercise all rights and perform all duties of the commission.

(g) Meetings of the members of the commission shall be held at the call of the chairperson or whenever any two members so request."

SECTION 7.

Said chapter is further amended by revising subsection (a) of Code Section 21-5-6, relating to the powers and duties of the Georgia Government Transparency and Campaign Finance Commission, as follows:

"21-5-6.

(a) The commission is vested with the following powers:

(1) To meet at such times and places as it may deem necessary;

(2) To contract with other agencies, public or private, or persons as it deems necessary for the rendering and affording of such services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities;

(3) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in the furtherance of the purposes of this chapter;

(4) To employ an executive secretary and such additional staff as the commission deems necessary to carry out the powers delegated to the commission by this chapter;

(5) To issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence;

(6) To institute and prosecute actions in the superior courts, in its own name, seeking to enjoin or restrain any violation or threatened violation of this chapter;

(7) To adopt in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' such rules and regulations as are ~~specifically authorized in~~ necessary to implement the purposes and requirements of this chapter; and

(8) To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the powers specifically authorized to it in this chapter."

SECTION 8.

Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by revising paragraph (1) of subsection (a) of Code Section 45-1-6, relating to gifts to employees by vendors, disclosure, and reports, as follows:

"(1) 'Commission' means the ~~Georgia Government Transparency and Campaign Finance~~ State Ethics Commission created under Code Section 21-5-4."

SECTION 9.

Said title is further amended by revising Code Section 45-7-7, relating to compensation and allowances of certain officials not to be changed without giving public notice, as follows:

"45-7-7.

(a) The compensation or allowances of the officials listed in subsection (b) of this Code section shall not be changed by the governing board or body having the authority to do so unless public notice of such proposed action and amount shall have been given at least 30 days prior to the date such board or body shall consider such action and unless notice of such proposed change shall have likewise been given to the Governor by the board or body at least 30 days prior to the date of such proposed change.

(b) Subsection (a) of this Code section shall apply to the compensation and allowances of the commissioner of community affairs, the director of the Employees' Retirement System of Georgia, the director of the State Forestry Commission, the director of the Georgia Bureau of Investigation, the executive director of the Georgia Franchise Practices Commission, the commissioner of human services, the commissioner of economic development, the commissioner of natural resources, the commissioner of public safety, the chancellor of the University System of Georgia, the president or executive director of the Georgia Student Finance Commission, the executive director of the State Soil and Water Conservation Commission, the executive secretary-treasurer of the Teachers Retirement System of Georgia, the commissioner of transportation, and the executive

266 director of the ~~Georgia Government Transparency and Campaign Finance~~ State Ethics
267 Commission."

268 **SECTION 10.**

269 Said title is further amended by revising subsection (a) of Code Section 45-10-26, relating
270 to public officials and employees to file yearly disclosure statements concerning business
271 transactions with the state and statements to be public records, as follows:

272 "(a) Except as provided in subsection (b) of this Code section, any public official or
273 employee, whether for himself, herself, or on behalf of any business, or any business in
274 which such public official or employee or any member of his or her family has a substantial
275 interest who transacts business with the state or any agency thereof shall disclose such
276 transactions. Such disclosure shall be submitted prior to January 31 each year to the
277 ~~Georgia Government Transparency and Campaign Finance~~ State Ethics Commission on
278 such forms as it shall prescribe and shall include an itemized list of the previous year's
279 transactions with the dollar amount of each transaction reported and totaled. Such
280 disclosure statements shall be public records."

281 **IV.**

282 Conduct of public officials.

283 **SECTION 11.**

284 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
285 government, is amended by revising Code Section 21-5-11, relating to acceptance by public
286 officers of monetary fees or honoraria, as follows:

287 "21-5-11.

288 (a) No public officer other than a public officer elected state wide shall accept a monetary
289 fee or honorarium in excess of \$100.00 for a speaking engagement, participation in a
290 seminar, discussion panel, or other activity which directly relates to the official duties of
291 that public officer or the office of that public officer.

292 (b) No public officer elected state wide shall accept any monetary fee or honorarium for
293 a speaking engagement, participation in a seminar, discussion panel, or other such activity.

294 (c) For purposes of this chapter, actual and reasonable expenses for food, beverages,
295 travel, lodging, and registration for a meeting which are provided to permit participation
296 in a panel or speaking engagement at the meeting shall not be monetary fees or honoraria.

297 (d)(1) On and after July 1, 2012, no public officer or a member of his or her family shall
298 accept or enter into a contract for the provision of goods or services to any public entity

other than the employment agreement for the office to which he or she has been elected to serve.

(2) Paragraph (1) of this subsection shall not apply:

(A) Where the public officer or a member of his or her family is the sole reasonably available supplier of such goods or services;

(B) To a contract entered into by a county or municipal public officer or his or her family member where such contract is for a contract amount of \$10,000.00 or less; or

(C) To a public officer or a member of his or her family who is merely an employee of the contractor.

(e) No public officer shall receive compensation or payment of any kind for lobbying members of Congress or providing lobbyist services in other states."

SECTION 12.

Said chapter is further amended in subsection (a) of Code Section 21-5-50, relating to filing financial disclosure statements by public officers, candidates for public office, elected officials and members of the General Assembly, electronic filing, and transfer of filings from the Secretary of State to the commission, by adding a new paragraph to read as follows:

"(7) Any public officer or any person serving either as a member of a state board, commission, or authority or as the head or executive director of a state department, bureau, agency, authority, or other similarly designated state entity, including the members of the Board of Regents of the University System of Georgia, shall file with the commission not before the first day of January nor later than July 1 of each year in which such person holds office a financial disclosure statement for the preceding calendar year. In addition, each such public officer shall file with the commission, together with the financial disclosure statement, an affidavit confirming that he or she took no official action in the previous calendar year that had a material effect on such public officer's private financial or business interests."

SECTION 13.

Said chapter is further amended by revising Code Section 21-5-75, relating to postemployment restrictions on public officers, as follows:

"21-5-75.

(a) Except as provided in subsection (b) of this Code section, on and after ~~January 8, 2007~~ July 1, 2012, persons identified in subparagraphs (A) through (D) of paragraph (22) of Code Section 21-5-3 and the executive director of each state board, commission, or authority shall be prohibited from registering as a lobbyist or engaging in lobbying under

333 this article for a period of ~~one year~~ two years after terminating such employment or leaving
334 such office.
335 (b) The lobbying prohibition contained in subsection (a) of this Code section shall not
336 apply to persons who terminate such employment or leave such office but who remain
337 employed in state government."

338 V.
339 Effective date and repealer.

340 **SECTION 14.**

341 This Act shall become effective on July 1, 2012.

342 **SECTION 15.**

343 All laws and parts of laws in conflict with this Act are repealed.